

Law Office of Patrick Flanigan
By: Patrick Flanigan
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Attorney for Plaintiff

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DONNA O'KEEFE	§	
115 Harvard Road	§	
Havertown, PA 19083	§	CIVIL ACTION
Plaintiff,	§	
	§	
v.	§	NO.: _____
	§	
DON GUANELLA VILLAGE (DGV)	§	
1799 S. Sproul Road	§	
Springfield, PA 19064-1195	§	
and	§	
FRANCIS J. HAGARTY	§	JURY TRIAL DEMANDED
c/o DGV	§	
Defendants.	§	

NOTICE TO PLEAD

You have been sued in court. If you wish to defend against the claims set forth in the following pages. You must take **action within twenty (20) days** after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

**YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF
YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, THEN
GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND
OUT WHERE YOU CAN GET LEGAL HELP.**

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LAWYER REFERRAL AND INFORMATION SERVICE
ONE READING CENTER
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TELEPHONE: (215) 238-1701

If you are looking for an attorney in a county listed below, then contact that county bar association's lawyer referral service (LRS) directly.

- Allegheny County,
Pittsburgh:
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- Beaver County,
Beaver:
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Reading:
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- Blair County,
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(814) 693-3090
- Bucks County,
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Stroudsburg:
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Philadelphia:
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County,
Washington:
(724) 225-6710
- Westmoreland
County,
Greensburg:
(724) 834-8490
- York County,
York:
(717) 854-8755

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COMPLAINT - CIVIL ACTION

I. INTRODUCTION

Donna O’Keefe, Plaintiff, is an adult individual who alleges through Patrick Flanigan, Esquire from the Law Office of Patrick Flanigan, seeks redress of all rights and privileges pursuant to the Family and Medical Leave Act, as amended 2008 (FMLA), 29 U.S.C. § 2601 *et seq.* Plaintiff avers as follows:

II. PARTIES

1. Donna O’Keefe (Plaintiff) is an adult individual who currently resides at the above captioned address. At all times material hereto, Plaintiff was a citizen of the United States, resided in the Commonwealth of Pennsylvania and an employee of Defendant Don Guanella Village.

2. Defendant Don Guanella Village (Defendant DGV) is a fictitious name for an entity maintaining an office and conducting business at the above captioned address and, at all times material hereto, also transacted business in Delaware County, Pennsylvania and employed Plaintiff.
3. Defendant Francis J. Hagarty (Defendant Hagarty) is an adult individual, who maintained an office and conducted business at location of Defendant DGV and, at all times material hereto, transacted business in Delaware County, Pennsylvania and was in a supervisory position over the Plaintiff on behalf of Defendant DGV. Plaintiff further believes that Defendant Hagarty is a citizen and domiciled in the Commonwealth of Pennsylvania.

III. JURISDICTION AND VENUE

4. The above mentioned paragraphs are incorporated as if set forth more fully herein.
5. Jurisdiction is conferred upon this Honorable Court by 28 U.S.C. § 1337 relating to "any civil action or proceeding arising out of any act of Congress regulating commerce," 28 U.S.C. § 1343(4), and 28 U.S.C. § 1331. This action is authorized and instituted pursuant to the Family Medical Leave Act, 29 U.S.C.2601 *et seq.*
6. Venue is appropriately laid in the United States District Court for the Eastern District of Pennsylvania, pursuant to 28 U.S.C. § 1391(b), because all parties regularly conduct business within this district and the acts complained of by Plaintiff arose therein.

IV. FACTS

7. During May 2000, Plaintiff commenced employment with Defendant DGV as a registered nurse and at all times prior to termination, Plaintiff had a better than average attendance and disciplinary record.

8. On or about January 19, 2009, Plaintiff commenced leave under the FMLA for hip surgery.
9. On March 11, 2009, Plaintiff was terminated while on a FMLA leave of absence.
10. At all times material hereto, Defendant DGV delegated some or all of its obligation and authority to Defendant Hagarty.
11. Defendant DGV has aided and abetted the discrimination alleged herein by actively and actually collaborating, participating, and conspiring in the discrimination that forms the basis of this Complaint and intended to aid the discriminatory behavior or shared some common purpose with Defendant Hagarty.

COUNTS I & II

FAMILY AND MEDICAL LEAVE ACT, AS AMENDED 2008, 29 U.S.C. §2601 *et seq.*

INTERFERENCE (Count I) and RETALIATION (Count II) **DONNA O'KEEFE V. DEFENDANTS DGV AND HAGARTY**

12. The above-mentioned paragraphs are incorporated as if set forth more fully herein.
13. Pursuant to 29 U.S.C. §2611(2)(A) and 29 U.S.C. §2612(a)(1)(D), Plaintiff was eligible for Family and Medical Leave.
14. At all times material hereto, Plaintiff believes that Defendant DGV had at least 50 employees including volunteers for 20 or more calendar work weeks during the pertinent year or the preceding year within 75 mile radius.
15. Plaintiff was employed for at least 12 months and worked at least 1,250 hours during the 12 months preceding the leave of absence, or Plaintiff was otherwise qualified under the employer's policies.
16. Plaintiff has statutory rights to be free from interference and retaliation under the Family and Medical Leave Act, 29 U.S.C.A. §2601 *et seq.*, which Defendants violated,

including, but not limited to, as set above.

17. As a direct and proximate result of Defendants unlawful interference and retaliation, Plaintiff has been deprived of economic and non-economic benefits including, but not limited to, wage loss, pain and suffering, mental anguish, humiliation, loss of fringe benefits, painful embarrassment among family, friends and co-workers, disruption of personal life and loss of enjoyment of the ordinary pleasures of life.
18. Defendants' acts were willful, wanton, malicious, and oppressive and with reckless disregard for Plaintiff's federally protected rights; therefore, justifying the imposition of punitive damages.
19. Plaintiff demands favorable judgment against Defendants for all equitable relief including, but not limited to: reinstatement to job position, full restoration of all leave and health benefits and any additional unpaid leave up to the maximum permitted by the FMLA including, but not limited to, doubling the damages proven inclusive of all wages, salary, employment benefits or other compensation denied or lost.
20. Plaintiff further demands favorable judgment for all interest on the monetary benefits calculated at the prevailing rate, an additional amount equal to those sums, as liquated damages under 29 U.S.C.A. §2617(a)(3), fees and costs including the allowance of reasonable attorney fees, expert witness fees and other costs of the action and such other orders and further relief as may be necessary and appropriate.
21. In addition, Defendant DGV had an employee handbook and failed to provide Plaintiff the benefits provided therein.

WHEREFORE, Plaintiff demands favorable judgment against Defendants for all available equitable relief, plus all past and present wages, salary, employment benefits or other compensation denied or lost by reason of the violations. Further, Plaintiff seeks punitive damages plus counsel fees, costs and other relief as deemed appropriate by the Court.

VERIFICATION

I, Patrick Flanigan, verify that I am the attorney for Plaintiff, Donna O’Keefe, in the above captioned matter and that the information contained in the foregoing ***Complaint*** is true and correct to the best of my knowledge, information and belief after reasonable inquiry.

The undersigned understands the verifications herein are made subject to 28 U.S.C. § 1746.

Date: June 18, 2010.

For ECF: /s/Patrick Flanigan

By: _____

Patrick Flanigan

Attorney for Plaintiff

Law Office of Patrick Flanigan

PA Attorney No.: 92794

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